

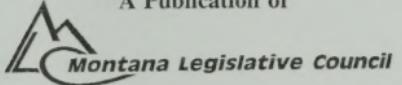
# Montana State Library

This cover sheet created by Internet Archive for formatting.



Digitized by the Internet Archive  
in 2008 with funding from  
Montana State Library

3  
328,05  
L131



A Publication of

Montana State Library



3 0864 1004 4166 9

STATE DOCUMENTS COLLECTION

# THE INTERIM

MAY 10 1996  
MONTANA STATE LIBRARY  
1515 E. 6th AVE.  
HELENA, MONTANA 59620

MAY 1996 HELENA, MONTANA VOL. X NO. 12

## PLEASE RETURN COMMITTEE ON STATE MANAGEMENT SYSTEMS

Committee Hears From DofA Staff...The SJR 23 Committee on State Management Systems met Friday, April 19, for a general work session but also specifically to be briefed by Department of Administration staff on the general subject of "information technology: planning and implementation". Tony Herbert, Administrator, Information Services Division, and Lois Menzies, Director of the Department of Administration, covered a variety of issues, including the current state of affairs with the State's information technology (IT), current and upcoming maintenance and enhancements to state systems, status of the mainframe and of desk top computing, and planning for the future of IT, including financing options.

Committee Reviews Work of Task Forces...The Committee also reviewed the work accomplished by the Accounting Task Force, Budget Task Force, and Data Management Task Force. The respective chairpersons and co-coordinators of each Task Force reported that the groups were in position to compile and submit their findings, conclusions, and recommendations to the full Committee at the next meeting, scheduled for June 10 and 11. At that meeting, the Committee will review and take appropriate action on recommendations proposed by each Task Force, including any draft legislation resulting from the recommendations.

To Meet Again in June...The Committee is scheduled to meet on Monday and Tuesday, June 10 and 11, in Room 437 of the Capitol in

Helena. For more information, please contact Dave Bohyer at the Legislative Services Division, (406)444-3064.

## GAMING ADVISORY COUNCIL

Council to Meet in June...The Gaming Advisory Council will meet on June 20 and 21 in Room 325 of the State Capitol, beginning at 9 a.m. on both days. The Council will discuss proposals to the 1997 Legislature, including electronic monitoring and reporting of video gambling machines.

For further information about the meeting, contact Wilbur Rehman, Gambling Control Division, (406)444-1971.

## COMMITTEE ON INDIAN AFFAIRS

Committee Meets in March...The Committee on Indian Affairs met on Thursday, March 28 in Room 104 of the State Capitol. Despite the inclement weather, the meeting was interesting and informative and led to some lively discussion.

Committee Hears Update on Coordinator's Position...Lori McGowan, Administrative Officer in the Coordinator of Indian Affairs' Office, reported that there are nine candidates for the Coordinator's position. The law reads that a list of five names agreed upon by the tribal councils is to be submitted to the Governor who then appoints someone from that list. The Montana Tribal Leaders' Council is currently seeking resolutions from all of the tribal governments that will give the Council the authority to pare the list down from nine to five. There is some talk among the tribal leaders to revise the law to make it more workable. The Committee directed staff to work with the Governor's Office and the Tribal Leaders' Council to see if some legislation is necessary that the Committee could sponsor.

Reserved Water Rights Compact Commission Gives Report...Susan Cottingham of the Reserved Water Rights Compact Commission reported on the Commission's current work with the Chippewa Cree Tribe of the Rocky Boy's Reservation. The Reservation suffers from a severe water shortage and has poor drinking water. There is some discussion about

constructing a pipeline from the Tiber Reservoir to the Reservation. The water in the Tiber Reservoir is also of great interest to the Blackfeet Tribe because the reservoir is fed by the Marias River that has its origin on the Blackfeet Reservation. Therefore, the Compact Commission is also meeting with the Blackfeet Tribe to talk about the pipeline. The Fort Belknap Reservation has expressed an interest in water from the Tiber Reservoir and is also in on the discussions. There is a reluctance on the part of the federal government to fund the pipeline because of its cost. The Compact Commission is seeking an appropriation from the EPA to do a feasibility study on the pipeline, but the appropriation is tied up in the budget wranglings in Washington, D.C. The Compact Commission is also in the beginning stages of negotiations with the Crow Tribe and the Confederated Salish and Kootenai Tribes. However, the Commission's main area of emphasis right now is the Rocky Boy's Reservation.

Recent Supreme Court Decision is Discussed...Sarah Bond of the Attorney General's Office reported on *Seminole Tribe of Florida v. Florida* that was decided by the U.S. Supreme Court on March 27. The decision basically held that an Indian tribe cannot sue a state for a state's failure to negotiate a gaming compact in good faith. However, the decision will probably have an impact much wider than just Indian gaming. Because the rest of the Indian Gaming Regulatory Act is still intact, the exact impacts of the decision on Indian gaming is as yet unknown. What is known is that the lawsuits filed by three Indian tribes against the State of Montana will most likely be dismissed.

Crow Land Exchange Continues...Wayne Wetzel of the Department of Natural Resources and Conservation reported on the progress of the land exchange with the Crow Tribe as a result of the Crow Settlement Act of 1994. A steering committee composed of federal, state, county, and tribal officials has been established to implement the exchange. Approximately 34,000 acres of state land on the Crow Reservation will be exchanged. The first land exchange has begun. About 5,300 acres on the Crow Reservation will be exchanged for lands of similar value in Beaverhead County. The steering committee will hold public hearings in Butte and Lima in April. Once all of the public comments have been received and reviewed, the steering committee will present resolutions to the State Land Board for its approval.

Crow Tribal Taxes Are Discussed...Mick Robinson, Director of the Department of Revenue, reported on meetings between the Department and the Crow Tribe regarding the imposition of taxes by the Crow Tribe. There is a lot of dissent and opposition by non-Indians who are subject to the taxes. They question the Crow Tribe's authority to tax non-Indians. They want this jurisdictional issue addressed before a cooperative agreement is entered into by the state and the Tribe. However, jurisdiction is a federal issue, not a state issue that can be addressed in

a cooperative agreement. The state and the Crow Tribe hope to continue their discussions.

At the request of Senator Stang, staff passed out a packet of correspondence between a taxpayer on the Crow Reservation and the Revenue Oversight Committee regarding the imposition and collection of the Crow resort tax. The taxpayer is questioning the Tribe's right to tax a non-Indian on the Reservation.

ACLU Sues State Over Reapportionment...Staff reported on the lawsuit filed by the ACLU, challenging the legislative districts established by the Montana Districting and Apportionment Commission in 1993. The plaintiffs would like to see two more majority-Indian districts: one that would combine portions of the Blackfeet and Flathead Reservations and one that would combine the Rocky Boy, Fort Belknap, and Fort Peck Reservations. The lawsuit is asking that no future elections be held under the current reapportionment scheme. The U.S. Supreme Court has struck down predominantly racial minority districts that were created in violation of other apportionment criteria. However, under the Voting Rights Act, American Indians are considered a language minority, not a racial minority. Whether that will make a difference in this lawsuit remains to be seen. A pretrial conference before Judge Hatfield is scheduled for April 17 in Great Falls.

Staff Updates Committee on SJR 11...Staff provided an update on the status of the SJR 11 study. Surveys have been sent out to the units of the Montana University System. Surveys for K-12 schools are being developed. The Committee will receive a report on the Indian Studies Law by mid-April. Other reports will be made to the Committee by mid-May. The Committee agreed to put the plans for a statewide poll on hold due to the cost of conducting such a poll.

The Committee will hold a public hearing on SJR 11 during the Montana Indian Education Conference in Great Falls. The hearing is scheduled for Tuesday, April 23 in the Mansfield Room at the Holiday Inn from 1 p.m. to 2:30 p.m. Another public hearing on SJR 11 will be held on the evening of June 6 on the Fort Peck Reservation.

Committee to Visit Fort Peck in June...The Committee will visit the Fort Peck Reservation on June 6 and 7. The Committee will tour the Reservation on June 6 and hold a meeting with the Fort Peck Tribes on June 7.

## LEGISLATIVE SERVICES DIVISION

### LEGAL SERVICES OFFICE

On April 12, 1996, the Montanans for Common Sense Water Laws, Phillips County, the City of Malta, and eight individuals filed suit against the Attorney General, the Secretary of State, the Legislative Services Division, and Montanans for Clean Water challenging the petition for I-122. The complaint seeks a declaratory judgment that the petition for I-122 is invalid and a writ of mandamus compelling the Attorney General and the Secretary of State to order the petition form invalid. The complaint also seeks a declaratory judgment that the petition form does not comply with section 13-27-204, MCA, and a writ of mandamus compelling the Attorney General, the Secretary of State, and the Legislative Services Division to reform the petition or to review the content of the preamble to the petition.

The defendants are coordinating the defense efforts and expect to file their responses during the first week in May.

## LEGISLATIVE AUDIT COMMITTEE

Committee Meets in March...The Legislative Audit Committee met March 29 in Room 108 of the Capitol Building. The following reports were presented:

### FINANCIAL-COMPLIANCE AUDITS:

#### Department of Administration (95-11)

A financial-compliance audit was performed for the two fiscal years ending June 30, 1995. This report contains one recommendation related to reporting federal surplus property activity. An unqualified opinion was issued on the Department's financial schedules.

#### Department of Commerce (95-12)

A financial-compliance audit was performed for the two fiscal years ending June 30, 1995. This report contains three recommendations to the Department and two disclosure issues. The major issue addressed in this report relates to establishing fees commensurate with costs. The disclosure issues relate to the New Motor Vehicle Warranty Act and personal vehicle use. A qualified opinion was issued on the financial schedules of the Department.

Department of State Lands (95-15)

A financial-compliance audit was performed for the two fiscal years ending June 30, 1995. This report contains 11 recommendations. Because the Department of State Lands no longer exists, seven recommendations were addressed to the reorganized Department of Natural Resources and Conservation and four to the newly created Department of Environmental Quality. The major issues addressed in this report relate to unreconciled reclamation performance bonds, untimely close out of a FEMA grant, and spending non-general fund money first as required by law. A qualified opinion was issued on the financial schedules of the Department.

Department of Justice (95-16)

A financial-compliance audit for the Department of Justice was performed for the two fiscal years ending June 30, 1995. Issues in the report include compliance with travel laws, efficiency in the Montana Highway Patrol requisition and inventory systems, untimely deposits not in accordance with state law, and proper recording of financial activity. An unqualified opinion was issued on the financial schedules for the audit period.

Montana State University-Bozeman, Montana State University-Northern, Montana State University-Billings, and College of Technology, Montana State University-Billings (95-7, 95-8, 95-9, 95-23)

This report represents the combined reports on the financial-compliance audits of the units of Montana State University. The report contains unqualified opinions on the financial statements of MSU-Bozeman and MSU-Northern for the two fiscal years ending June 30, 1995, and an unqualified opinion on the financial statements of MSU-Billings for the fiscal year ending June 30, 1995.

The report contains five recommendations to Montana State University-Bozeman. Major issues addressed to MSU-Bozeman include compliance with federal laws and regulations concerning student financial assistance and allowable costs of other programs, compliance with state travel laws and regulations, and proper recording of expenditure activity.

The report contains eight recommendations to MSU-Northern, including areas to improve controls over non-treasury cash accounts and compliance with state accounting policy and law. The prior audit report of MSU-Northern contained six recommendations, five of which are still applicable. Of those recommendations, four have been implemented, and one not implemented. The recommendation not implemented relates to controls over non-treasury cash accounts. The recommendation is discussed in more detail in the current report.

The report contains no recommendations to either MSU-Billings or the College of Technology, MSU-Billings.

Department of Health and Environmental Sciences (95SP-84)

A financial-compliance audit for the Department of Health and Environmental Sciences was performed for the fiscal year ending June 30, 1995. Issues included in the report relate to federal cash management and reporting, payroll reporting procedures, and accounting issues. A qualified opinion was issued on the financial schedules of the Department.

Department of Corrections, Selected Programs (95SP-84A)

A limited scope financial-compliance audit of selected divisions of the Department of Corrections was performed for fiscal year 1994-95. The scope of the audit was limited to the divisions and bureaus of the Department of Corrections that were transferred to the Department of Public Health and Human Services as of July 1, 1995. The results of the audit are discussed in a two-page letter report. The letter report contains no recommendations to either the Department of Corrections or the Department of Public Health and Human Services.

Montana Single Audit Report

The Montana Single Audit Report for the two fiscal years ending June 30, 1995, was presented at the Legislative Audit Committee meeting. The report contains four sections:

- (1) FY 1994-95 Financial Section;
- (2) FY 1993-94 Financial Section;
- (3) Federal Single Audit Reports section; and
- (4) Audit Issues section.

The Audit Issues section contains all federal issues, recommendations, and responses by state agencies identified since the issuance of the last single audit report. All issues included in this section can be found in the individual audit reports issued for those agencies. The federal single audit reports section includes reports required under the federal Single Audit Act of 1984. The FY 1993-94 and FY 1994-95 financial sections contain the General Purpose Financial Statements, which are included in the state's Comprehensive Annual Financial Reports for those years. The Comprehensive Annual Financial Reports are made available to legislators by the Department of Administration. These sections also include the FY 1993-94 and FY 1994-95 Schedules of Federal Financial Assistance for the state of Montana. These schedules are prepared by the Office of Budget & Program Planning and document, by federal program, the over \$1 billion in federal assistance received by the state in FY 1993-94 and again in FY 1994-95.

If you would like copies of specific sections of this report, please call Scott Seacat, Legislative Auditor at (406)444-3122.

#### LIMITED SCOPE REVIEW:

##### Medicaid Expenditures for Durable Medical Equipment, Department of Public Health and Human Services (95-10A)

The Medicaid program pays for medically necessary equipment and supplies for qualified low income people. The review identified areas for annual cost savings in the processing of DME claims and the acquisition of medical equipment and supplies. These areas include:

- competitively bidding term contracts for oxygen concentrators-- potential cost savings between \$336,000 and \$504,000;
- using the state term contract for incontinence supplies-- potential cost savings over \$24,000; and
- requiring written description for all items billed to miscellaneous codes--potential cost savings \$134,000.

#### PERFORMANCE AUDITS:

##### Analysis of Game Warden Work Activities, Department of Fish, Wildlife & Parks, Law Enforcement Division (95P-04)

Enforcement of fish, wildlife, and parks laws and regulations are primarily centered within the Department of Fish, Wildlife, and Parks' Law Enforcement Division. The division's game wardens are commissioned peace officers responsible for the enforcement of these laws and regulations. This performance audit evaluated game warden work activities to determine if the Department efficiently uses its game wardens. The audit found the division is unable to determine the efficiency of game warden activities and, therefore, does not have a management system in place to evaluate whether wardens appropriately prioritize their workload. The report recommends the Department implement a resource-based enforcement workload-planning and priority-setting process. Other report recommendations address strengthening license fraud investigations, restructuring the ex-officio game warden program, improving TipMont operations, and increasing controls over citations.

##### Probation and Parole Process, Probation and Parole Bureau, Department of Corrections (Limited Scope 95P-01)

This report provides an overview of various components of community corrections, although audit scope was limited to the probation and

parole process. Areas for potential audit were proposed, including examining the controls and effectiveness of the current management information system, the Board of Pardons, the Intensive Supervision Program (ISP), and pre-release centers.

Management controls of the Probation and Parole Bureau were examined and staff compliance with selected program policies and procedures was assessed. Staff compliance was noted in key areas such as supervision standards and re-assessment of supervision levels. Overall, the bureau has developed a responsive management structure that promotes program communication and coordination. Report recommendations include improving this system by strengthening staff monitoring and developing measurable program outcomes.

To Meet Again in June...The next meeting of the Legislative Audit Committee is scheduled for June 14.

## ENVIRONMENTAL QUALITY COUNCIL

EQC Meets in April...The Environmental Quality Council met on April 26. Agenda topics included Subcommittee updates, a Resource Indemnity Trust Fund fiscal analysis update, an overview of the state Natural Resource Information Program, and a panel discussion on electrical industry deregulation.

Subcommittee Meets Prior to EQC Meeting...The Enforcement and Compliance Subcommittee met on April 24 and 25. The Subcommittee heard panel discussions on state/local relationships in compliance and enforcement and state/federal relationships in compliance and enforcement. The Subcommittee reviewed and approved a public review document that includes study findings and issues identified to date.

Full Report in June...Because the Enforcement and Compliance Subcommittee and the EQC meetings occurred so close to THE INTERIM's publishing date, a complete description of the meetings will be available in next month's edition.

In the meantime, for more information on these meetings, please contact the EQC staff at (406)444-3742.

## LEGISLATIVE FINANCE COMMITTEE

Subcommittee to Meet in May...The LFC Subcommittee on SB 378, assigned to review statutory appropriations and state special revenue accounts, will continue its review of statutory appropriations at its next meeting on May 2 in Room 104, beginning at 8 a.m. The Subcommittee will also begin formulating recommendations to the LFC.

## POSTSECONDARY EDUCATION POLICY AND BUDGET COMMITTEE

PEPB Committee Meets...On April 15, the Postsecondary Education Policy and Budget Committee met to hear staff reports and discuss policy issues to be considered at the Legislative Conference on Higher Education at Yellow Bay on May 3, 4, and 5.

PEPB Hears Reports on Tuition, State Support, and Financial Aid...Sandy Whitney, Legislative Fiscal Division, presented a report documenting that state support and financial aid have declined since fiscal year 1992 while tuition and debt increased. The report showed that debt per student incurring debt increased approximately \$1,000 per year more than the sum of increased tuition, fees, board and room, and miscellaneous expenses during the period. Commissioner of Higher Education Jeff Baker presented a report from his task force that noted that increased tuition and debt can potentially decrease needy student access to the University System. The task force suggested that increased need-based grants and work-study programs might be needed to prevent students from dropping out for financial reasons.

OBPP Reports on Faculty Workload...Amy Carlson, Office of Budget and Program Planning, reported on an on-going project to determine faculty workloads and provide a benchmark by which the University system can measure progress toward more efficiency in teaching. The recent work involved changing class definitions to more accurately reflect the instructors' time commitments.

Committee Discusses Goals and Accountability Measures...Commissioner Baker outlined higher education policy concerns and goals revolving around quality, access, and cost. Sandy Whitney presented a report entitled "Accountability Measures" that discussed sample goals, objectives, and

accountability measures. Committee discussion of legislative goals and objectives for the University System resulted in the following:

- (1) a Committee emphasis on undergraduate education as a priority goal;
- (2) a Committee emphasis on the objectives of enhancing two-year education, improving the application process, and implementing core credit transfers; and
- (3) a request that possible accountability measures to determine progress toward these goals and objectives be presented at the next meeting.

To Meet Again in June...The PEPB will meet again on June 24. The agenda will include discussions on the cost of education, enrollment and tuition in fiscal 1996, accountability measures, and the Yellow Bay Higher Education Conference.

## REVENUE OVERSIGHT COMMITTEE

General Fund Revenue Slightly Below Estimate...At the Revenue Oversight Committee's March 29 meeting, Terry Johnson, Legislative Fiscal Division, presented a summary of general fund revenue collections through February 29, 1996. Although revenue collections are ahead of last year's collections to date, underlying economic conditions may cause fiscal year 1996 revenue to be less than anticipated. For example, the growth in employment is higher than expected, but the new jobs are concentrated in the lower-paying retail trade and services sector. As a result, the growth in wages and salaries is below projections. Individual income tax collections are ahead of last year's collections. However, the amount collected to date includes accelerated withholding tax payments from large employers (House Bill No. 293). If the accelerated withholdings are excluded from the total, individual income tax collections are below anticipated amounts. Other areas of concern are flagging coal prices and production and long-term interest rates. After adjustments are made for policy and accounting changes, general fund collections are below what was anticipated by the Legislature. Johnson noted that a 1% shortfall in revenue for the biennium would use up the entire ending fund balance.

DOC to Develop Nonlevy Revenue Data Base...Although property taxes are the major source of tax revenue for local governments, nonlevy revenue accounts for a large portion of a taxing jurisdiction's revenue

base. Nonlevy revenue includes motor vehicle taxes, local government severance taxes, and interest earnings. There is not much information on the magnitude of these revenue sources. Norm Klein, Local Government Services Bureau, Department of Commerce, told the Committee that the Department of Commerce is developing a data base for nonlevy revenue. The purpose of the data base will be to provide usable information for the Legislature, state agencies, Montana Association of Counties, and the League of Cities and Towns as well as for the citizens of Montana.

Director Reports on Rail Car Settlement...Mick Robinson, Director Department of Revenue, reported on the rail car tax agreement reached with ACF Industries and seven other rail car companies operating in Montana. The agreement covers tax years 1991 through 2002. The rail car companies will receive a tax refund plus accrued interest for tax years 1991 and 1992. A federal district court judge ruled that the retroactive application of the tax violated the 4-R Act. As part of the agreement the Department of Revenue agreed to drop the appeal of that decision. The agreement requires that the rail car companies accept average speeds lower than those contained in Senate Bill No. 257 (vetoed by the Governor) while the Department accepts the 100% speed approach for allocating the number of cars in Montana. The amount of tax owed for tax years 1993 through 1995 will be based on 90% of the statewide average mill levy for commercial and industrial property. The amount of tax owed for tax years 1996 through 2002 will be based on 95% of the statewide average mill levy for commercial and industrial property. The Department anticipates that the state will receive in excess of \$6 million in tax and interest during the 1997 biennium.

Greg Petesch, Director, Legal Services Office, reviewed the rail car settlement and identified three issues that the Committee should consider:

- (1) the authority of the Department to bind the state for future tax years;
- (2) the authority of the Department to negotiate a tax rate; and
- (3) the general authority of the Department to enter into negotiated settlements even when the tax is not disputed.

The Committee will review these issues at its next meeting.

Other Business...Rep. Dick Simpkins criticized the Department of Revenue for not adopting administrative rules to implement its policy for issuing a beer and wine license used in conjunction with an all-beverage license. Jeff Martin, Committee staff, presented a progress report on the study to revise the taxation of motor vehicles. Newell Anderson discussed some of the implications of the downsizing at Colstrip.

## SUBCOMMITTEE ON A STATE-CHARTERED FOREIGN INVESTMENT DEPOSITORY

Subcommittee Holds Sixth Meeting...The Subcommittee on a State-Chartered Foreign Investment Depository met for the sixth time, on March 27-28 at the State Capitol in Helena. After a staff review of findings and observations accumulated during the course of 8 months and 5 previous meetings, the Subcommittee heard presentations on state liability issues from Annie Bartos, Chief Legal Counsel at the Department of Commerce, and Will Hutchison, Assistant Attorney General. Both voiced concerns about the risk to the state inherent in its acting in a chartering and regulatory role. Potential claims by a foreign customer of the depository could allege negligence, for example, in an instance where the institution goes bankrupt.

Subcommittee Hears About Abandoned Property...Mick Robinson, Director of the Department of Revenue and Mike Wellenstein, Assistant Attorney General, informed the members about how the state's laws governing unclaimed or abandoned property are administered. This discussion was predicated on the assumption that a certain amount of the assets on deposit in the new financial institution would "escheat" to the state if and when the foreign owner died, was killed, or simply disappeared in some distant and dangerous land.

Mike Batista, Administrator of the Law Enforcement Services Division at the Department of Justice was unable to attend the meeting and address issues related to local and state officials' access to and use of private financial information.

Subcommittee Considers Privacy and Tax Issues...Subcommittee members were then provided with written comments on the prospective depository from Ingo Walter, a professor at New York University and author of several books on international private banking, and from Jacques Luben, representing Platinum Guild International, also based in New York. Both sets of comments allude to the importance of confidential transactions and to the balance of risk and opportunity for all participants in any financial undertaking where privacy is both coveted and limited by law.

The Subcommittee was assisted by Mr. John Cadby and Mr. George Bennett from the Montana Bankers Association and by Mr. Lynn Chenoweth from the Department of Revenue in their reconsideration of several tax issues, such as whether the depositories would be subject to standard corporate income tax rates and how the state could assess an annual fee based on the value of total assets on deposit.

Subcommittee Requests Draft Enabling Legislation... Notwithstanding a number of still unresolved policy questions and additional concerns about the commercial viability of the prospective depositories, the members of the Subcommittee voted unanimously to request draft enabling legislation to allow the establishment of state-chartered financial institutions that would accept deposits from non-resident aliens for purposes of investment, asset protection, and safekeeping. Pursuant to a request to the Legislative Council to extend the study period beyond the previously set tentative April termination date for the study, the Subcommittee plans to hold at least one additional meeting that will serve as a public hearing on the draft legislation. No specific date for that meeting has been set, but it will most likely occur in early September.

Between now and the hearing date, staff will be piecing together a legislative package that will incorporate features drawn from banking laws in other jurisdictions, including Switzerland, the Cayman Islands, California, and several other states. The type of financial institution envisioned by the Subcommittee will require new law and may also require changes to existing statutes pertaining to tax administration, the recognition of foreign civil judgments, the regulatory powers and functions of the state Banking Commissioner, and the disposition of unclaimed property. The Subcommittee members and staff are guided by a number of principles and objectives that are either generally implied or explicitly identified in the following summary, which served to focus discussion during the March meeting.

The statutory framework should create a synergy of legally sound, commercially attractive, and culturally compatible features that comprise a unique package, even if it can be imitated (just as legalized gambling has spread from Nevada to other states). Eight states have a privacy provision similar to Montana's in their respective constitutions and some 17 states have enacted right to financial privacy statutes. About 20 states have not passed the Uniform Act on the Recognition of Foreign Civil Judgments, but not for the express purpose of impeding access to foreign assets in domestic depositories. New York, Los Angeles, San Francisco, Seattle, and Puerto Rico are all host to International Banking Facilities, which allow U.S. banks to make loans and to accept deposits from non-residents, free from state and local taxes as well as from reserve requirements and interest rate regulations. A number of states have passed legislation to attract foreign bank subsidiaries. So far, to the staff's knowledge, no U.S. state has combined privacy, protection, and profit potential in the manner outlined below.

## 1. PRIVACY

- *For the depositor/investor (non-resident aliens only) via a state Right to Financial Privacy statute that complements federal law, protects against unwarranted inquiries by state agencies*

and private entities, and provides for severe penalties for the wrongful disclosure of private financial information.

## 2. PROTECTION

- To depositors/investors from foreign creditors seeking to exercise civil judgments (e.g. via non-recognition grounds in the Uniform Foreign Money-Judgments Act). Other "speed bumps" to deter and inhibit litigation could include licensure requirements that the chartered institution provide legal defense & that plaintiffs post bonds and pay court costs and attorneys fees.
- To depositors/investors from institutional bankruptcy or other failure via private deposit insurance.
- To the financial institution and its employees from disgruntled depositors suing for breach of confidentiality via "safe harbor" provisions in the law.
- To the state of Montana from liability for negligence and from corruption and abuse via state regulation, prudential supervision, and extraordinary diligence prior to issuing charter/license.
- To the United States from financial crime (money laundering etc.) via strict compliance with Bank Secrecy Act and voluntary recognition of international principles and cooperative endeavors such as the Financial Action Task Force (FATF) comprised of OECD member countries.

## 3. PROFIT

- For the depositor/investor via tax exempt interest earnings (e.g., U.S. Treasury bonds or Montana municipal bonds), access to Montana platinum bars and bullion at a discount, appreciation in value of tangible assets (platinum bars, gold-backed Swiss francs, other coins, art, jewels, etc.) and/or returns on direct investment (such as through placements in the Montana Private Capital Network or in established mutual funds).
- For the financial institution via fees for services rendered and via investment earnings.

- *For the state of Montana via new tax revenues, escheatment, and the indirect gains from economic development engendered by depository activity.*

Copies of the minutes from the March 27-28 meeting (as well as from each of the five previous meetings) are available from the Research Office in the Legislative Services Division. Contact Legislative Research Analyst Stephen Maly at (406)444-3064 for additional information.

## THE BACK PAGE

A key dilemma under federal as well as state welfare reform is how to make going to work affordable to low-income families. It costs money to get training and to go to work. If a family's work income does not cover the cost of going to work, then what? The family will not be successful in achieving economic independence from public welfare assistance programs. One of the biggest obstacles for families trying to achieve economic independence is paying for child care. This edition of "The Back Page" discusses some of these child care and welfare reform issues.

### CHILD CARE AND WELFARE REFORM

by Sheri S. Heffelfinger, Research Analyst  
Legislative Services Division

#### *What has happened to the family?*

Nationally, the percentage of working mothers with children under 6 years old has increased from 39% in 1975 to 60% in 1994. In 1990, only 46% of all children under the age of 5 were cared for by a parent in the home; 53% of all children are cared for by someone other than a parent during work hours. The "traditional" two-parent family with the father working and the mother at home with the children now constitutes only 25% of all families with children in the United States.

Clearly, our nation has experienced a profound social and family restructuring, which has placed new stresses on families and challenged government, schools, churches, and businesses to cope with changing family needs and the realities of child care outside the home. Child care, which was once more of a private concern of parents, relatives, and neighbors, has raised societal dilemmas and become a public concern. How a child is supported, nurtured, and taught in early childhood, ages 0 to 7 years old, forms the foundation for that child's life. As more and more parents enter the work force and leave their children in the care of others, parents, communities, and governments must be concerned with how well those children are being provided for.

From a purely economic point of view, the success, or failure, of the child care "system" has a direct impact on the success, or failure, of

welfare reform. Under the state's welfare reform initiative, Families Achieving Independence in Montana (FAIM), the goal is to have 100% of all families who are on public welfare assistance find a job, engage in employment training activities to prepare themselves for a job, or perform some kind of community service in exchange for receiving public assistance. This means that the parents of children under 6 years old will have to find child care.

*How many Montana families and children need child care?*

All working families need child care. All children in day care need security, a nurturing and healthy environment, and the opportunity to develop emotionally, cognitively, socially, and physically. Looking at 1990 census labor statistics in Montana, 40,740 children under 6 years old were in families where both parents worked or in families living with their single parent who worked.

According to census data, in 1990, there were 799,065 people in Montana and 42,960 families with one or more children under 6 years old. Based on a profile of household members by age, there were about 70,000 children under 6 years old living in a household. The 1990 data also show that 48,449 mothers 16 years or older have one or more children under 6 years old; 27,993 (58%) of these mothers are currently in the work force.

*How many of these families and children in need of child care are low income?*

Of the nearly 70,000 children under 6 years old in a household, 16,895 (24%) are in families with incomes below the federal poverty level. Table 1 is a break out of the type of household in which these children live and the percentage (and number) of these children in families with incomes under \$12,674, the federal poverty level for 1989 for a family of four.

TABLE 1

Family Type	Number of children under 6 years old	Percent of children under 6 years old where family income is below federal poverty level (number)
Family with a married couple	56,835	15% (8,675)
Family with single male head of household	2,404	41% (991)
Family with single female head of household	10,462	69% (7,229)

\*Source: U.S. Bureau of the Census, processed by the Census & Economic Information Center of the Montana Department of Commerce. Taken from 1990 census data report, Profile 126, Poverty status in 1989 by family type and age of children.

#### *What does child care cost?*

According to recent estimates, child care is the fourth largest household expense after shelter, food, and taxes. The annual cost for one child in full-time day care at a child care center is \$3,900 (2,080 hours/8 hrs a day x \$15.00 a day).

For families with an income of less than \$15,000 per year, child care expenses for one child can consume about 24% of the family's annual gross income and can make it economically impossible for the mother or the single parent to work, pay child care expenses, and have enough money left over for the other essentials such as housing, food, and clothing.

The mean income for Montana families with children under 18 years old and the percent of personal income that must be spent on child care for one child is as follows:

	Mean income	# of families	% to child care
Married couples	\$37,127	86,022	10%
Male single parent	\$21,120	4,845	18%
Female single parent	\$12,634	17,290	30%

*What payment assistance programs are available for child care and how are they funded?*

Three categories of public assistance funds provide for several different child care payment assistance programs for low-income families in Montana. The following list is an overview of these programs. The bold italics highlights the new FAIM programs. Five programs remain unchanged under the FAIM initiative. It is important to note that in six counties, 20% of the population will be randomly designated as a control population and will receive welfare benefits under the "old" non-FAIM welfare program criteria.

Funded by Title IV-A funds, 70% federal and 30% state match:

<u>Control population</u>	<u>Under FAIM</u>
■ At Risk Child Care (ARCC)	■ At-Risk Child Care (ARCC)
■ Transitional Child Care (TCC)	■ <i>Extended Child Care (ECC)</i>
■ Self-Initiated Child Care (SICC)	■ <i>Employment and Training Child Care (ETCC)</i>
■ JOBS Child Care (JBCC)	■ JOBS Child Care (JBCC)
■ Tribal JOBS Child Care (TJBCC)	■ Tribal JOBS Child Care (TJBCC) ■ <i>Job Supplement Child Care (JSCC)</i>

Funded by Child Care Development Block Grant (CCDBG), 100% federal, no state:

- Block Grant Child Care (BGCC), no change under FAIM

Funded by 100% state general fund:

- Child Protective Services Child Care (CPS), no change under FAIM

Without going into detail about what types of activities each of these programs cover and who is eligible to receive child care assistance, the following are the basic child care issues associated with welfare reform:

- Will child care assistance programs be funded sufficiently to support the child care needs of Montana's welfare recipients who need child

care in order to achieve economic independence, i.e., will child care be affordable?

- Will quality child care be available as well as affordable to these low-income and FAIM parents so that they are not forced to place their child in substandard care?
- What are the implications if quality child care is not made available or affordable to these families?
- What legislative or policy options should be considered to ensure that child care needs are provided for and that welfare reform can succeed in helping families achieve economic independence?

#### SUMMARY ANALYSIS AND CONCLUSIONS

Child care will likely become a priority issue for policymakers. Without affordable and available child care alternatives, welfare to work reform initiatives will fail. Furthermore, since more and more families must have two incomes to make ends meet, even without welfare reform, more than half of the nation's children are already being raised outside of the home or by someone other than a parent. This makes quality, as well as affordability and availability, an urgent public policy concern.

Because each issue (quality, affordability, and availability) must be addressed so that one is not undermined by the other, a holistic strategy is essential. For example, affordability and availability can compete with quality. Higher standards for quality may mean more training requirements for child care providers. Yet, more training requirements may make it harder for providers to meet standards and may have an adverse affect on the availability of quality child care slots. Also, with higher quality child care comes a higher price tag. Thus, quality child care is harder to afford.

Because of these dilemmas, many in the child care community, e.g., parents, providers, and program managers, are concerned that quality child care will be the sacrificial lamb on the altar of welfare reform. Yet, child care is a critical lynch-pin in the entire welfare reform initiative. A parent without affordable day care will not be able to "afford" the cost of going to work. Finally, with more than 50% of Montana's children being raised in a day care situation, what will be the ultimate price paid for the lack of quality care?

Montana's publicly-funded child care expenses in FY95 totaled just under \$3 million dollars, served 22,889 children, and provided an average of \$130 per month per child, ranking Montana 49th out of 50 in per capita

child care spending. Under FAIM, publicly-funded child care expenses are expected to increase, while the number of AFDC recipients will, hopefully, decrease as more families enter the workforce. However, the criteria of cost-neutrality in the long term means that while child care costs will remain a significant and costly portion of welfare benefits, state budgeting for child care must either keep up with the increased demand or families will have to pay more of their child care costs from their own pockets. Budgeting for child care expenses as well as for other pressing public assistance, education, and other needs, is certainly like walking a tight rope: trying to keep state child care expenses under control without knocking families off of the high wire as they seek to overcome obstacles and achieve or retain economic independence.

The Joint Oversight Committee on Children and Families, a permanent legislative committee, is examining these issues. A research report and analysis of child care and welfare reform will be presented to the Committee at its next meeting on May 10, beginning at 9 a.m. in Room 104 of the State Capitol. For more information, contact Sheri Heffelfinger, Legislative Services Division, (406)444-3064.



## INTERIM CALENDAR

UNLESS OTHERWISE SPECIFIED,  
ALL ROOM DESIGNATIONS ARE IN THE CAPITOL

### MAY

- May 2, LFC Subcommittee on SB 378 (de-earmarking), Room 104,  
8 a.m.
- May 3, LFC Subcommittee on Budget Comparisons, Room 104,  
9 a.m.
- May 3, 4, and 5, Montana Legislative Conference on Higher  
Education, Yellow Bay, Flathead Lake
- May 10, Oversight Committee on Children and Families, Room 104,  
9 a.m.
- May 13, SJR 23 Budget Task Force
- May 16, Subcommittee on Veterans' Needs, Eastern Montana  
Veterans' Home, Glendive, 9 a.m.
- May 20, LFC Subcommittee on RIT Funding
- May 23 and 24, EQC Enforcement/Compliance Subcommittee
- May 27, Memorial Day, holiday

### JUNE

- June 6 and 7, Committee on Indian Affairs, Fort Peck Reservation,  
Poplar
- June 7, Committee on Public Employee Retirement Systems, Room  
104, 8 a.m.

June 10 and 11, Subcommittee on State Management Systems, Room 437

June 13 and 14, Legislative Finance Committee, Room 104, 8 a.m.

June 14, Legislative Council (tentative)

June 20 and 21, Oversight Committee on Children and Families, Room 104, 9 a.m.

June 20 and 21, Gaming Advisory Council, Room 325, 9 a.m.

June 24, Committee on Postsecondary Education Policy and Budget, Room 104, 9 a.m.

June 26, EQC Enforcement/Compliance Subcommittee

June 27, EQC MEPA Subcommittee

June 28, Environmental Quality Council

**JULY**

July 4, Independence Day, holiday

July 25 and 26, EQC Enforcement/Compliance Subcommittee





360 copies of this public document were published at an estimated cost of 76¢ per copy, for a total cost of \$273.60, which includes \$150.88 for printing and \$122.72 for distribution.





